

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant :	Barry Appelman	Art Unit :	2174
Serial No. :	09/848,231	Examiner :	Ke Peng
Filed :	May 4, 2001	Conf. No. :	6250
Title :	PRESENCE STATUS INDICATOR		

**Mail Stop Appeal Brief - Patents**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REPLY BRIEF

Pursuant to 37 C.F.R. § 41.41, appellant responds to the Corrected Examiner's Answer of August 5, 2009 as follows:

A. On July 14, 2009, the Board of Patent Appeals and Interferences (hereinafter "the Board") issued an Order indicating that the present application was not ready for docketing as an appeal due to certain errors/omissions by the Examiner and returned the present application to the Examiner for correction of the noted issues prior to docketing the application for appeal. In particular, the Order noted:

- (1) the Examiner's Answer did not appear to take into consideration appellant's amendment filed on March 6, 2006; and
- (2) there was no indication on the record of whether the Examiner had considered Information Disclosure Statements filed by appellant on March 12, 2007, July 19, 2007, September 7, 2007, March 7, 2008, and March 14, 2008.

B. In response to the Board's Order of July 14, 2009, the Examiner issued a Corrected Examiner's Answer on August 5, 2009. Upon review of the Corrected Examiner's Answer, it remains unclear whether appellant's amendment filed on March 6, 2006 and appellant's Information Disclosure Statement filed on March 12, 2007 have been considered. For example, the "Status of Amendments After Final" section of the Corrected Examiner's Answer indicates that "[n]o amendment after final has been filed," and the Corrected Examiner's Amendment

nowhere addressed appellant's Information Disclosure Statement of March 12, 2007. In addition, it appears that both the "Grounds of Rejection" and the "Response to Argument" sections of the Corrected Examiner's Answer remain unchanged substantively from the original Examiner's Answer of June 5, 2006.

C. On October 1, 2009, in response to the Corrected Examiner's Answer of August 5, 2009, the Board issued another Order indicating that the corrections required by the Board's Order of July 14, 2009 had not been made in their entirety. In particular, the Order noted:

- (1) the Corrected Examiner's Answer did not appear to take into consideration appellant's amendment filed on March 6, 2006; and
- (2) there was no indication on the record of whether the Examiner had considered the Information Disclosure Statement filed by appellant on March 12, 2007.

D. On August 7, 2006, appellant filed a Request for Oral Hearing and a Reply Brief in response to the original Examiner's Answer of June 5, 2006. Due to the fact that the Corrected Examiner's Answer appears to be unchanged substantively from the original Examiner's Answer of June 5, 2006, appellant is not now filing any substantive response to the Corrected Examiner's Answer of August 5, 2009. Rather, appellant is filing this Reply Brief simply to indicate that appellant wishes to maintain appellant's Appeal Brief of March 6, 2006, Reply Brief of August 7, 2006, and Request for Oral Hearing of August 7, 2006. For the reasons stated in appellant's Appeal Brief of March 6, 2006 and Reply Brief of August 7, 2006, appellant submits that the final rejection should be reversed.

Applicant : Barry Appelman  
Serial No. : 09/848,331  
Filed : May 4, 2001  
Page : 3

Attorney's Docket No. 06975-0130001

Please apply any charges or credits due in connection with the filing of this paper or otherwise to Deposit Account No. 06-1050.

Respectfully submitted,

Date: October 5, 2009

  
\_\_\_\_\_  
Andrew T. Foy  
Reg. No. 57,333

Fish & Richardson P.C.  
1425 K Street, N.W.  
11th Floor  
Washington, DC 20005-3500  
Telephone: (202) 783-5070  
Facsimile: (877) 769-7945

40597638.doc